

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed July 12, 2007. Through this response, claim 1 has been amended. Reconsideration and allowance of the application and pending claims 1, 2, and 5-7 are respectfully requested.

### **I. Claim Rejections - 35 U.S.C. § 102(b)**

#### **A. Statement of the Rejection**

Claims 1, 2, and 5-7 have been rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by *Ferrante et al.* ("*Ferrante*," U.S. Pat. No. 5,176,684). Applicant respectfully traverses this rejection. Applicants have amended claim 1, thus rendering the rejection moot. Further, Applicants respectfully submit that claims 1, 2, and 5-7 are allowable over *Ferrante*.

#### **B. Discussion of the Rejection**

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

### **Independent Claim 1**

Independent claim 1, as amended, recites (emphasis added):

A medical bur for cutting bone, said medical bur comprising:  
a handle configured to be gripped by a user;  
a shaft extending from said handle having a terminal end;  
and

a bur head attached to said shaft, said bur head having a cutting portion and a stop portion such that a position of said stop portion along said shaft is fixed with respect to said cutting portion; said cutting portion being located between said handle and said stop portion, said cutting portion having a longitudinal axis and exhibiting symmetry thereabout, said longitudinal axis being aligned with a longitudinal axis of said shaft;

said stop portion being located at said terminal end of said shaft, spaced from said cutting portion along said shaft to permit independent movement of said cutting portion about said longitudinal axis of said shaft with respect to said stop portion, said stop portion having a longitudinal axis and exhibiting symmetry thereabout, ***the stop portion covering the terminal end of said shaft;***

wherein said cutting portion of said bur head is adapted to rotate under power and said stop portion of said bur head is adapted to move independently with respect to said cutting portion such that said cutting portion is rotatable to cut through bone while said stop portion tends to prevent contact of said cutting portion with soft tissue located adjacent the bone being cut.

Applicants respectfully submit that Ferrante does not anticipate at least the above-emphasized claim language. Specifically, *Ferrante* fails to disclose, teach, or suggest at least the claimed feature of “the stop portion covering the terminal end of said shaft.” The bearing sleeve 66 of *Ferrante*, figures 4 and 5, does not cover the end of shaft 64; instead shaft 64 extends past bearing sleeve 66. For at least these reasons, Applicants submit that claim 1 is allowable over *Ferrante*, and respectfully request that the rejection of the claim be withdrawn.

### **Dependent Claims**

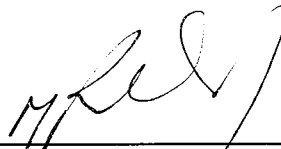
Because independent claim 1 is allowable over *Ferrante*, dependent claims 2 and 5-7 are allowable as a matter of law for at least the reason that the dependent claims 2 and 5-7 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Additionally, these claims recite other features that can serve as an independent basis for patentability. By way of example, claim 7 recites “...said stop

portion is shaped as a portion of a sphere". The bearing sleeve 66 of *Ferrante*, figures 4 and 5, is cylindrical in shape, which does not teach, disclose or suggest a stop portion shaped as a portion of a sphere. Clearly, at least this claim is in condition for allowance. Applicants respectfully request that the rejections of the claims be withdrawn.

**CONCLUSION**

Applicants respectfully submit that the pending claims are in condition for allowance. Additionally, any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



---

M. Paul Qualey Jr.  
Registration No. 43,024

**THOMAS, KAYDEN,  
HORSTEMEYER & RISLEY, L.L.P.**  
Suite 1750  
100 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500